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Applicability: All DDSN State Employees

The language used in this policy does not create an employment contract between the employee and the Department of Disabilities and Special Needs (SCDDSN). <u>SCDDSN reserves the right to change the contents of this policy in whole or in part.</u>

## **PURPOSE:**

This directive establishes Leave Regulations for the South Carolina Department of Disabilities and Special Needs. Specific types of leave are addressed in the following sequence:

Annual Leave
Sick Leave
Leave Without Pay
Absence Without Leave
Official Leave
Court Leave
Funeral Leave
Military Leave
Educational Leave
Holidays
Family & Medical Leave

#### **ANNUAL LEAVE: Employees Entitled to Annual Leave:**

Annual leave accrues to the employee's credit when he is in a pay status for one-half or more of the workdays of the month. Employees in pay status for less than one-half of the workdays of the month shall receive no credit. Employees in pay status for one-half or more of the workdays of the month shall be credited with leave earnings for the entire month. Annual leave shall not be granted in advance of accrual. An employee shall accrue annual leave while on annual leave,

sick leave, or other authorized leave with pay.

# a. Permanent Full-Time Employees:

A full-time employee hired into a permanent position (one who is not a temporary employee) shall earn annual leave from the date of employment.

# b. Permanent Part-Time Employees:

A part-time employee hired into a permanent position (one who is not a temporary employee) who works at least one-half the time of a permanent full-time employee shall earn annual leave from the date of employment on a prorated basis. These employees will earn leave at a rate equivalent to that of a permanent full-time employee.

# c. Temporary Employees:

Temporary employees or personnel employed to work less than one-half the time of a permanent full-time employee shall not be entitled to accrue or take annual leave.

## **Employees on Educational Leave:**

Employees on Leave Without Pay for purposes of education shall not accrue annual leave. However, if the employee returns to work during the academic summer vacation, the employee shall be allowed to accrue leave during the period of employment on the same basis as other employees. Unused leave credited to the employee at the time of entrance upon an educational leave contract shall be retained and restored to the employee upon immediate return from educational leave to regular employment.

#### **Leave Accrual:**

Permanent employees (both part-time and full-time) who work one-half time or more shall accrue annual leave. Computation of annual leave is based upon years of State service and does not include military service.

Permanent employees with State service of 10 years or less will accrue annual leave at a rate of 9.38 hours per month or 4.69 hours per pay period.

Permanent employees with State service exceeding 10 years will accrue annual leave at a rate dependent upon the number of years in excess of 10 years service worked beginning the month after their adjusted anniversary date. These rates are as follows based on a 7.5 hour day, 5 days per work week schedule:

	Hourly Earnings	Hourly Earnings
Years	Per	Per Pay
	Month	Period
11	10.16	5.08
12	10.94	5.47
13	11.72	5.86
14	12.50	6.25
15	13.28	6.64
16	14.06	7.03
17	14.84	7.42
18	15.63	7.82
19	16.41	8.21
20	17.19	8.60
21	17.97	8.99
22 and over	18.75	9.38

Employees working 8 hours per day will have their rates adjusted accordingly.

Employees as of June 2, 1972, shall carry forward all service as a State employee prior to June 2, 1972, for purposes of determining annual leave earnings. Subsequent to June 2, 1972, employees who terminate employment with the State and who are rehired following a break in service shall be given credit for the period of service prior to termination to a maximum of 10 years. No credit shall be given for the period between termination and re-employment.

"Any permanent employee of a state agency or department must be given full state service credit for prior service as a certified employee of a school district of this State for purposes of computing bonus earnings and no credit under this paragraph may be given for any out-of-state school district." Teaching personnel and officials of academic rank in state-supported institutions of higher learning may count this time in determining annual leave earning rates in a later assignment.

#### **Break In Service:**

An employee experiences a break in service under the following circumstances:

- a. When transferring from one State agency to another, an employee does not report to work with the gaining agency within 15 calendar days following the last day for which the employee was paid by the losing agency.
- b. By remaining in leave-without-pay status for a period of more than one year.

- c. By separation from State service and subsequent re-employment regardless of lapse of time. An employee is considered to have terminated from State service (as opposed to an interagency transfer) if he or she is paid for unused annual leave. An exception to this would be when an employee transfers to a teaching position or a position of academic rank at a State supported institution of higher learning due to the fact that such a transfer required that the employee be paid for accrued annual leave credits at the time of the transfer.
- d. If, following a reduction in force by the employing agency, the employee is not recalled within 12 months of the effective date of layoff.
- e. An employee in leave-without-pay status for more than one calendar year shall not experience a break in service if:
  - 1. The employee is on educational leave as provided for in the Educational Leave Program for State agencies.
  - 2. The employee is on military tour of duty with re-employment rights protected under Federal and/or State law.
  - 3. In the event a disciplinary act such as suspension or dismissal is set aside or the employee is re-employed as may be directed by a subsequent decision of a grievance hearing, the period in which the employee is not on the agency's payroll shall not be considered as a break in service.
- f. Employee's performance review and State service dates shall be adjusted for the total length of periods of authorized leave-without-pay or educational leave-without-pay of over 30 working days in any one calendar year and for periods of breaks in service.

#### **Maximum Accumulation:**

The maximum accumulation of annual leave shall not exceed 45 days at the beginning of any calendar year.

Maximum accumulation of annual leave for part-time employees shall be prorated on 45 day maximum accumulation basis.

#### **Request for Annual Leave:**

Request for annual leave must be made on SCDSN Form P-24 "Application For Leave", in advance. In services where shifts and shift coverage is a factor, written application for must be submitted at least 24 hours in advance.

Exception may be made in emergency situations where circumstances prevent advance applications. Non-shift employees will be responsible for notifying their supervisor no later than fifteen (15) minutes after their scheduled time. If the leave is approved, the employee will immediately submit upon return to work an application for leave for formal confirmation. If the

annual leave is not approved, the absence will be charged to leave-without-pay.

# **Granting Annual Leave:**

All supervisors are responsible for the duty status of employees under their supervision. The granting of leave at any specific time and the length of any annual leave (the number of consecutive working days in any one leave period) is an administrative determination which must be based on the work requirements of the service concerned. It may not be possible at the time to authorize leave; however, every reasonable effort will be made to allow an employee the vacation time of the employee's choice. In cases where there is an excessive number of applications in one service for the same vacation period, consideration will be given to seniority, family conditions (children in school or mandatory vacation period of another member of the family), or other conditions which will contribute to a reasonable decision.

## **Minimum Charge:**

The minimum amount of annual leave per initial request shall be one-half hour. Additional time will be charged in quarter hour increments. Employees shall be charged for the actual time (in quarter hour increments) they are away from the job for periods of less than one-half hour due to tardiness or leaving work station without authorization.

#### **Maximum Charge:**

Employees on a five day per workweek schedule may only use 30 working days of annual leave in any one calendar year. This may be exceeded under emergency or extreme hardship conditions. An employee who has used all accumulated sick leave and 30 days of annual leave may, with the approval of the State Director, use any remaining annual leave credit the employee may have. Denial of the use of annual leave as provided herein will be grounds for review by the State Budget and Control Board upon request of the employee.

# **Disposition of Annual Leave:**

#### a. Organizational Transfer:

When an employee is transferred from one facility or organizational subdivision to another, accumulated annual leave will be transferred with the employee.

# b. <u>Position Transfer</u>:

Employees transferred or reassigned from one full-time position to another shall be entitled to receive credit for the total amount of accrued leave.

- c. <u>Transfer Between Departments or Agencies of the State Government South Carolina</u>:
  - 1. Employees who transfer from any facility of the South Carolina Department of Disabilities and Special Needs to other departments or agencies of the South Carolina State Government must request the transfer of accumulated annual leave to the receiving department or agency.

2. The South Carolina Department of Disabilities and Special Needs may accept the accumulated annual leave of State Government employees transferring into the Department provided that the employee reports within 15 calendar days following last day for which the employee was paid by the losing agency. A maximum of 45 days accumulated annual leave may be carried over into the following calendar year.

#### d. Termination:

Upon termination of employment with the South Carolina Department of Disabilities and Special Needs, for reasons other than retirement or death, the employee shall receive a lump sum payment of accumulated annual leave not to exceed the allowable maximum. Employees who terminate may be paid a maximum of up to 45 days of accumulated. Upon retirement or death of employee, payment will be made for all unused leave not to exceed forty-five days.

Annual leave in excess of the payable maximum shall be forfeited if not used prior to termination. If termination is by reason of death, the lump sum payment shall be paid to the survivors or the estate of the deceased employee upon the establishment of a valid claim. A state employee who resigns and has a break in service and later accepts employment with another agency may not transfer annual leave to a new agency.

## e. Computation of Final Leave Payment:

Final payment for accrued annual leave will be computed on an annual hourly rate rounded to the nearest cent. Regular days off will not be considered in computing final leave payment.

# f. Substitution of Annual Leave:

When a holiday is observed by the Department of Disabilities and Special Needs while an employee is on annual leave, such days shall not be charged as a day of annual leave.

#### SICK LEAVE

# **Employees Entitled to Sick Leave:**

a. A full-time employee hired into a permanent position (one who is not a temporary employee) shall earn sick leave.

## b. Permanent Part-Time Employees:

A part-time employee hired into a permanent position (one who is not a temporary employee) who works at least one-half the time of a permanent full-time employee shall earn sick leave on a pro-rated basis. These employees will earn leave at a rate equivalent to that of a permanent full-time employee.

#### c. Temporary Employees:

Temporary employees or personnel employed to work less than one-half the time of a permanent full-time employee shall not be entitled to accrue or take sick leave.

#### **Additional Sick Leave Provisions:**

In addition to sick leave credit that may be credited as provided under this Section, the State Director may grant additional sick leave in extenuating circumstances. Additional sick leave may be advanced to a maximum of 15 days, and only upon reasonable assurance that the employee is expected to return to active duty within that period of time. Upon return to active duty, the employee will have all sick leave credits applied to the leave deficit at the rate of 9.38 hours per month until the deficit has been erased. In the event the employee terminates prior to all leave being repaid to the Department, the employee shall pay the Department the balance due computed by the number of hours outstanding times the employee's hourly rate of pay at the time the extension was granted.

Where no competent medical prognosis is available and an approximate date of return to active duty cannot be ascertained, the employee should be placed in leave-without-pay status.

# **Eligibility for Sick Leave:**

An employee shall be granted sick leave if absent for any of the following reasons:

- a. Personal illness or injury incapacitating the employee to perform duties of the position.
- b. Exposure to a contagious disease such that presence on duty could endanger the health of fellow employees or residents where certified by a licensed physician.
- c. Appointment for medical, dental, or optical examination or treatment by licensed physicians or other recognized practitioners when such appointment cannot reasonably be scheduled during non-work hours. To the degree possible examination appointments must be approved in advance by the appointing authority. Sick leave granted shall be limited to the time required for the examination or treatment plus reasonable travel time.
- d. Sickness during pregnancy or other temporary disabilities. To the extent permissible, the date on which sick leave for maternity purposes is to begin shall be the determination of the employee and her doctor, but in no event shall such date be prescribed unilaterally by an appointing authority except on the basis of professional medical opinion that the employee is physically incapable of performing normal duties or that continuing to perform normal duties would be hazardous to the health of the employee.
- e. Treatment for alcoholism sick leave may be used by an employee for the purposes of participating in public and/or private treatment and rehabilitation programs for alcoholics which have been approved by the South Carolina Department of Mental Health.

f. Sick leave will normally be granted for illness of employees only; however, employees earning sick leave may use up to ten (10) days sick leave annually to care for ill members of their immediate family. Immediate family is defined as a spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, legal guardian, and grandchildren if the grandchild resides with the employee and the employee is the primary caretaker of the grandchild. An adoptive parent may use up to six weeks of accrued sick leave to take time off for purposes of caring for the child after placement. This leave may be authorized only if the employee is primarily responsible for furnishing the care and nurture of the child.

#### **Sick Leave Accrual:**

Sick leave is accrued at a rate of 9.38 hours per month based on a 7.5 hour working day. Accrual rate does not increase after completion of ten years' service.

#### **Sick Leave Records:**

A sick leave record shall be maintained by the South Carolina Department of Disabilities and Special Needs for each employee. This record will reflect leave earnings and charges. A written report of sick leave accruals, charges and balances will be given to employees on a periodic basis. Sick leave records are subject to audit by the State Budget and Control Board.

#### **Maximum Accumulation:**

Permanent full-time and part-time employees may accumulate sick leave credit to a maximum of 195 days in a calendar year. However, only 180 days may be carried over from one calendar year to the next. The calendar year is measured from January 1 through December 31.

# **Minimum Charge:**

The minimum amount of sick leave per request shall be one-half hour with additional time charged in quarter hour increments.

#### **Notification of Illness:**

When an employee is incapacitated for duty because of illness, the employee must notify the officer of the day or shift supervisor of their absence and the reason therefore no later than thirty (30) minutes prior to their scheduled reporting time, if assigned to an area requiring twenty-four hour coverage. In other areas, employees will be responsible for notifying their supervisor no later than fifteen (15) minutes after their scheduled reporting time. Exceptions may be made in situations where circumstances preclude timely notification. It is the employee's responsibility to make the call to the supervisor except

in cases of emergency. In case of emergency, arrangements should be made to have someone notify the supervisor on behalf of the employee. If the illness continues beyond one day, the supervisor must be notified as to expected length of absence. Failure to give notice within a reasonable time may result in the absence being charged to absence without leave.

# **Application for Sick Leave:**

- a. Immediately upon return to duty, the employee should apply for sick leave on SCDDSN Form P-24 "Application for Leave". The application must be submitted to the immediate supervisor the day the employee returns to duty.
- b. Absence of three consecutive work days or more must be supported by a certificate from a medical practitioner. Such application of sick leave will be made on SCDDSN Form P-24 "Application for Leave". Whenever the employee is unable to obtain a medical certificate, or if the circumstances of the employee's illness do not require the services of a physician, the employee must submit a signed statement indicating the nature of the illness and the reason why a medical certificate is not furnished. The supervisor shall determine whether the statement of the employee constitutes sufficient evidence to support the application within the prescribed time or if there is insufficient evidence to support the application for sick leave, the absence shall be charged to leave-without-pay.
- c. When the services of a doctor or medical specialist are required due to illness of an employee, the employee must furnish a statement from the attending physician or specialist stating that the employee is able to return to duty by/or on a certain date.
- d. Sick leave for less that three consecutive work days may be approved without a medical certificate, provided satisfactory reason is given to justify the absence on a written sick leave application form.
- e. In individual cases where there is reason to believe that sick leave is being abused, the supervisor should inform the employee in writing that because a question has arisen concerning the use of sick leave, a medical certificate will be required for each future application for sick leave until further notice and if medical evidence is not submitted with each future application the time shall be charged to leave-without-pay.
- f. When an employee is scheduled in advance for surgery and/or appointment with physicians, dentists, optometrists, or other recognized practitioners, the employee must notify the supervisor in advance in order that the necessary adjustments may be made in the work schedule.

## **Expiration of Accumulated Sick Leave:**

A period of illness which continues beyond the employee's accumulated sick leave will be charged to annual leave upon the employee's request. If the employee does not have any accrued annual leave, the remaining period of illness will be charged to leave-without-pay.

#### **Break-In-Service:**

When an employee experiences a break-in-service, as defined in Section V, A-4, all sick leave credits are forfeited and may not be reinstated.

#### **Disposition of Sick Leave:**

## a. Organizational Transfer:

When an employee is transferred from one facility or organizational subdivision to another, accumulated sick leave will be transferred with the employee.

# b. Position Transfer:

Employees transferred or reassigned from one position to another shall be entitled to receive credit for the total amount of accrued sick leave up to the State maximum allowed.

## c. <u>Transfers Between Departments or Agencies Including School Districts:</u>

Employees who transfer from the South Carolina Department of Disabilities and Special Needs to other departments or agencies of the South Carolina State Government including school districts will have their accumulated sick leave transferred to the receiving department or agency. The Department of Disabilities and Special Needs will accept the accumulated sick leave of State Government employees transferring into the Department in an amount not to exceed the maximum authorized provided the employee reports to work within fifteen (15) calendar days following the last day for which the employee was paid by the losing agency and has not experienced a break-in-service.

In case of any employee transferring from an agency under whose system the employee had, prior to January 1, 1969, a maximum accumulation in excess of that currently authorized by the Department of Disabilities and Special Needs, the total shall be transferred.

#### d. Retirement:

Up to ninety (90) days of unused sick leave may be converted to retirement service credits at a rate of 20 days equaling one month of service.

#### **Terminations:**

All accumulated sick leave shall be canceled upon termination of the employee's service.

#### **Substitution of Sick Leave:**

When illness occurs during a period of annual leave or while on approved leave-without-pay, and continues for five (5) or more consecutive days, accrued sick leave may be substituted to cover the period of illness provided it is reported promptly. When the period of approved leave-without-pay is in excess of thirty (30) calendar days, substitution of sick leave for annual leave or leave-without-pay must be supported by a certificate of a licensed physician or other evidence administratively acceptable.

When a holiday is observed by the Department of Disabilities and Special Needs while an employee is on sick leave, such day shall not be charged as a day of sick leave.

#### **Re-employment From Military Leave:**

Personnel re-employed from military service within ninety (90) days shall be reinstated the total amount of accumulated sick leave which was forfeited at the time of separation to enter military service, provided the employee returns to duty under the provisions of Section 9-7-90, Code of Laws of South Carolina, 1976.

# Leave Without Pay for Illness, Disability and Maternity:

For any extended illness, disability or maternity leave exceeding the amount of accrued annual and sick leave, the employee may apply for leave without pay status for the projected inclusive dates of disability as noted in the physician's certificate not to exceed 180 days for all leave taken. All leave without pay for illness, disability or maternity up to 180 days must be approved by the District Director/Facility Administrator. The written request for leave without pay status shall specify the inclusive dates. The request shall not be denied for a bonafied illness or disability for employees in full-time equivalent (FTE) positions. The leave-without-pay shall be granted with reinstatement privileges to the same position or one of comparable grade for which the employee is qualified.

The agency will require, however, a physician's certificate describing the disability and giving the projected inclusive dates of disability. Dates set forth in the physician's certificate can be amended by the physician. In cases of apparent abuse, the Department of Disabilities and Special Needs may require additional documentation from the physician issuing the certificate or may secure additional medical opinions from other physicians. The employee shall return to work not later than (a) the end of the period for which leave was requested or certified by a physician or (b) at the end of 180 calendar days of leave with pay and leave-without-pay or (c) 180 working days of leave with pay, whichever is earlier; otherwise the employee shall forfeit reinstatement privileges and be

separated from State service. In extenuating circumstances, at the discretion of the State Director of Disabilities and Special Needs, or his designee, the period of leave without pay may be extended up to a total of 365 days.

The employee shall have the option of using or retaining accrued annual leave prior to leavewithout-pay. The employee shall use all sick leave before going on leave-without-pay status unless the State Director, or his designee, grants an exception at the employee's request.

# **Hiring Additional Employees:**

Additional permanent employees shall not be hired to replace employees on sick leave or leave-without-pay due to illness, disability, or maternity. Temporary or substitute employees may be hired for limited periods of time to provide coverage during the absences of permanent employees on extended leave.

# LEAVE-WITHOUT-PAY FOR REASONS OTHER THAN ILLNESS, DISABILITY, AND MATERNITY

#### **Authorized Absence:**

- a. Leave without-pay when requested and approved in advance is considered as an authorized leave and such leave shall not be granted until all accumulated annual leave has been used. Leave-without-pay shall not be converted into annual or sick leave when such leave is subsequently accrued.
- b. An employee cannot demand that he or she be granted leave-without-pay as a matter of right, and such leave is not dependent upon any specific length of service. The circumstances in each case will be considered in determining whether approval is warranted.
- c. Annual and sick leave shall not accrue during the period an employee is on leave-without-pay.
- d. An employee shall not be entitled to receive credit for a holiday while on leave-without-pay.

#### **Amount Authorized:**

Leave-without-pay for any reasons other than illness, disability, or maternity will not be granted in excess of thirty (30) calendar days unless it is considered in the interest of the Department of Disabilities and Special Needs and has been approved by the State Director or his designee.

## **Approval of Leave-Without-Pay:**

Applications for leave-without-pay may be approved by the personnel listed below. The Program Administrator will submit the request to the District Director/Facility Director.

a. Less than five (5) consecutive work days - Program Administrator

- b. Five (5) to twenty (20) consecutive work days District Director/Facility Administrator
- c. Over twenty (20) consecutive work days State Director or his designee.

# **Application:**

All applications for leave-without-pay must be submitted on SCDDSN Form P-24, "Application for Leave". The application must be accompanied by a written statement from the employee giving pertinent details for the reason leave-without-pay is necessary.

#### **Revised Performance Review Date and State Service Date:**

Any employee on leave-without-pay of more than thirty (30) calendar days will have the merit review date and the State service date adjusted accordingly.

#### **Failure to Report:**

Failure on the part of any employee to report promptly at the expiration of leave-without-pay may be just cause for dismissal without advance notice.

## ABSENCE WITHOUT LEAVE

- 1. An absence which has not been previously applied for and granted shall be considered an unauthorized absence from duty.
- 2. Unauthorized absence will be charged to annual leave or leave-without-pay. The employee will be given a written notice stating that the absence will be charged to annual leave or leave-without-pay and that future unreported or unauthorized absence may result in dismissal. A copy of the written warning will be forwarded to the Personnel Office to be placed in the employee's file.
- 3. An employee absent without approved leave for a continuous period of three (3) consecutive work days shall be dismissed for abandonment of position.

#### **OFFICIAL LEAVE**

#### 1. General:

The State Director of Disabilities and Special Needs or District Director/Facility Administrator may authorize official leave to attend meetings, conferences, or conventions of professional or technical organizations.

Official leave must be for short periods of time and related to the employee's field of work.

#### 2. Authorization of Travel and Per Diem:

It shall be the responsibility of the State Director or District Director/Facility Administrator to authorize funding of per diem and travel within the limits of the budget. Employees receiving mileage and per diem in and out of the State shall be paid in accordance with terms specified in the current South Carolina General Appropriation Act. Employees may use personal automobiles and receive mileage for such only if a State automobile is not available. Where an employee has traveled with another without charge in the latter's automobile to a meeting, the employee is not entitled to receive mileage.

# 3. Illness During Official Leave:

In the event an illness occurs during a period of official leave which prevents the employee from performing his/her duty, the period of illness shall be considered as official leave. However, if the illness extends beyond the approved period of official leave, the remaining absences shall be charged to sick leave.

# 4. Attendance at Local Workshops and Meetings:

Employees attending local workshops and meetings in connection with their work for a single day may be authorized the time off by their Service Director and the time may be charged as regular duty. However, if funds are involved, the absence and funding must be authorized by the Regional Director/Facility Administrator. Out of State travel must be approved by the State Director or his designee.

#### 5. Application:

Applications for official leave must be submitted in advance on SCDDSN Form P-24, "Application for Leave". Form AO 04, "Request for Travel", must be submitted for all out of State travel. In order to receive travel and per diem, application must be submitted on Form AO03R, "Travel Voucher".

#### **COURT LEAVE**

#### 1. Jury Service in a State Court or Political Subdivision Thereof:

Section 14-7-840, Code of Laws of South Carolina, 1976, provides for exempting men and women over sixty-five years of age from serving as a juror in any court of this state. All other employees of Disabilities and Special Needs facilities must serve unless they secure an excuse from the presiding judge of a court at the time jurors are selected.

## 2. Jury Service in a Federal Court:

Personnel falling in the following categories are automatically exempt from jury service in a Federal Court:

- a. Public official (either elected or appointed by one elected)
- b. Members of regular police or fire departments
- c. Members in active service in the Armed Services

Personnel falling in the following categories may apply to be excused from jury service in a Federal Court although the excuse may not be granted:

- d. Person with legal custody of a child under 12;
- e. Person 70 years of age or older;
- f. Person actively teaching in public or private school;
- g. Person essential to the care of aged or infirm; and
- h. Licensed actively practicing physician.

#### 3. Jury Service in a Court:

- i. Any permanent or probationary employee who is summoned as a member of a jury panel shall be granted administrative leave with pay, and any jury fees and travel payment shall be retained by the employee. This shall not apply to agencies whose employees are exempt from jury duty by law. Employees that are summoned to jury duty will be expected to work on any given day only the number of hours that, when added to the hours required to be at court, equal the normal workday for the employee.
- j. An employee excused from duty by the court for any period of time shall be expected to return to work, unless such return would work a hardship due to the distance from the employee's residence or place of duty. If the employee fails to return to work, the time excused from court service shall be charged to annual leave or, in case of illness, to sick leave, or leave-without-pay where leave with pay is not available.
- k. Application for court service must be submitted on SCDDSN Form P-24 "Application for Leave", immediately upon receipt of a summons.

#### 4. Service as Witness in a Court:

- 1. An employee who is subpoenaed by a Federal Court, a State Court, or a political subdivision thereof to serve as a witness may be granted court leave with pay for the period of absence.
- m. An employee excused from duty by the court for any period of time shall be expected to return to work, unless such return would work a hardship due to the distance from the employee's residence or place of duty. If the employee fails to return to work, the time excused from court service shall be charged to annual leave or, in case of illness, to sick leave, or leave-without-pay where leave with pay is not available.
- n. In no case shall court leave with pay be granted for court attendance when an employee is engaged in personal litigation.
- o. When an employee attends court in connection with official duties either as witness or defendant, the time required shall be shown on the records as though the employee were present for duty.
- p. Application for court leave to serve as a witness must be submitted on SCDDSN Form P-24, "Application for Leave", immediately upon receipt of the summons.

#### 5. Reimbursement:

- q. An employee who is summoned as a member of jury panel shall be granted court leave, and any jury fees and travel payment shall be retained by the employee.
- r. An employee serving as a witness or defendant in a case involving the Department shall be reimbursed according to State Budget and Control Board regulations for any meals, lodging, and travel expense that may be incurred while serving in this capacity.

#### **FUNERAL LEAVE**

#### 1. Leave of Absence

a. An employee, upon request, shall be granted up to three (3) consecutive work days of leave with pay in the event of the death of any member of the employee's immediate family. These three (3) days shall be taken within seven (7) calendar days of the funeral. No charge will be made against accumulated leave for above. If additional time is required, the employee may be authorized a charge to accrued annual leave at the

- discretion of the supervisor. If the employee does not have sufficient accrued annual leave, then the charge will be made to leave-without-pay.
- b. Immediate family is defined and limited to the spouse, great-grandparents, grandparents, parents, brothers, sisters, children, great-grandchildren and grand children of either the employee or the spouse and the spouses of brother, sister and children.
- c. When the funeral of an employee's immediate family takes place while on annual or sick leave, the period of such leave shall be reduced accordingly.
- d. Each employee requesting funeral leave shall submit a statement on SCDDSN Form P-24, "Application for Leave", stating the name of the deceased and the relationship to the employee.

# 2. <u>Deceased Employee or Other Individual</u>:

The District Director/Facility Administrator of a facility may, at the District Director/Facility Administrator's discretion, grant reasonable leave to employees for the purpose of attending the funeral of a deceased employee or other individual associated with the facility or Department. Such absence shall not be charged against accrued annual leave.

#### MILITARY LEAVE

## 1. Military Leave for Training:

a. All officers and employees of this State or a political subdivision of this State, who are either enlisted or commissioned members of the South Carolina National Guard, the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, or the United States Coast Guard Reserve are entitled to leaves of absence from their respective duties without loss of pay, time or efficiency rating, for one or more periods not exceeding an aggregate of fifteen (15) regularly scheduled work days in any one year during which they may be engaged in training or any other duties ordered by the Governor, the Department of Defense, the Department of the Army, the Department of the Air Force, the Department of the Navy, the Department of the Treasury, or any other department or agency of the government of the United States having authority to issue lawful orders requiring military service. Saturdays, Sundays, and state holidays may not be included in the fifteen-day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled work day for the officer or employed involved. In the event any such person is called upon to serve during an emergency, he is entitled to such leave of absence for a period not exceeding thirty additional days. Any one year means either a calendar year or, in the case of members required to perform active duty for training or other duties within or on a fiscal year basis, the fiscal year of the National Guard or reserve component issuing the orders.

b. Application for military training (IDT, AT or ADT) must be submitted in advance on SCDDSN Form P-24 "Application for Leave", and be supported by a copy of the military orders, unit training schedule, or other written evidence of duty from appropriate military authorities.

# 2. Leave for Active Military Duty:

- a. When an employee enters an extended period of active military service, such absence shall not be considered as military leave with pay for purpose of training.
- b. Any employee of the Department who on or after June 25, 1950, has been or shall be commissioned, enlisted, or selected for service shall be entitled to leave of absence from their duties for up to five (5) years from date of entry into the service without loss of seniority. Such leave of absence shall be without pay.
- c. Application for extended military leave shall be submitted in advance on SCDDSN Form P-24 "Application for Leave", with a copy of military orders or evidence from appropriate military authorities.
- d. While serving on extended military duty, an employee shall not accrue annual leave or sick leave.
- e. Employees returning from extended military duty, who are reinstated within a period of ninety (90) days from date of release from the armed forces shall be entitled to receive credit for the amount of sick and annual leave accumulated at the time of entry into the armed forces. The total amount of leave restored shall not exceed the maximum authorized for full-time positions on the date of reinstatement.

#### **EDUCATIONAL LEAVE**

Pursuant to Section 1-66.1, Code of Laws of South Carolina, leave may be authorized for employees to participate in educational, professional, or technical training programs.

Any permanent full time employee who has satisfactorily completed at least six months of employment with the Department is eligible to apply for educational leave without pay. The employee must apply for such leave to the State Director at least sixty (60) days before the first day of leave or within five (5) days of notification of acceptance for admission, whichever is later. The State Director is authorized to approve educational leave without pay when it will be to the advantage and benefit of the Department. Such leave shall be approved for a period of up to twelve (12) months. At the end of this time, if requested by the employee, the State Director may renew the leave for a period not to exceed an additional twelve (12) months.

Upon successful completion of educational leave without pay, the Department shall appoint the employee to his or her former position, a position of like status and pay, or, by promotion, to a

higher position. If a reduction in force occurs while the employee is on such leave, the Department shall consider the employee on the same basis as all other employees.

## **Employee Training:**

Education or training during off-duty hours should be encouraged. Employees work schedules may be adjusted where feasible to facilitate such training providing there is a distinct advantage to the Department and there is no adverse effect on job performance.

#### **HOLIDAYS**

# 1. Legal Holidays:

a. All employees other than temporary employees shall be entitled to observe with pay those holidays listed below:

New Year's Day January 1
Martin Luther King, Jr. Day
(3rd Monday in January)
Washington's Birthday (3rd Monday in February)
Confederate Memorial Day May 10
National Memorial Day Last Monday in May
Independence Day July 4
Labor Day (1st Monday in September
General Election Day (1st Tuesday after the 1st Monday in November in even years)
Veterans' Day November 10
Thanksgiving Day (4th Thursday in November)
Day after Thanksgiving 4th Friday in November
Christmas Day December 25
Day after Christmas December 26

The Governor of South Carolina is empowered to declare Christmas Eve as a holiday for state government employees.

## 2. Employees Entitled to Holidays:

- a. Employees who are on leave without pay status are not entitled to holidays falling during the period of leave without pay. All holidays must be taken on the day(s) they occur or within the ninety (90) calendar day period immediately following the holiday. District Directors or Facility Administrators may require holidays to be taken within thirty (30) calendar days following the holiday.
- b. Permanent part-time employees working halftime or more shall be entitled to that portion of a holiday equivalent to the number of hours which they would normally be scheduled for work on that day.

- c. Temporary employees shall not be entitled to pay for holidays unless they actually work on the holiday.
- d. Regular employees required to work on a holiday will be authorized compensatory time off within the ninety (90) calendar day period immediately following the holiday. Facility Administrators may require compensatory leave to be taken within thirty (30) calendar days. Prior notice insofar as possible shall be given to employees who must work on holidays. An employee who must work a portion of the holiday due to a shift that begins on one day and ends on another shall be granted compensatory leave credit for all hours of the entire holiday shift.

# 3. Holiday Occurring on Regular Days Off:

When a holiday falls between Monday and Friday, an employee who is not scheduled to work on that day will be given compensatory leave credit only if such credit is necessary for the employee to receive the same number of holidays as a Monday through Friday employee receives during a calendar year. If necessary, compensatory leave must be taken within a ninety (90) calendar day period following the holiday. District Directors or Facility Administrators may require such leave to be taken within thirty (30) calendar days following the holiday. Holidays that fall on Sunday will be observed the following Monday. Employees scheduled to work on Saturday or Sunday when it is a legal holiday shall either observe the holiday on that date or be given compensatory leave credit.

# 4. Holiday Occurring During Sick or Annual Leave:

When a legal holiday falls during a period of sick or annual leave, that day will not be counted as a sick or annual leave day.

#### 5. Termination

Upon termination from employment, a non-exempt employee shall be paid for holiday compensatory leave credits.

#### FAMILY AND MEDICAL LEAVE

#### General:

Employees who have been employed for at least one (1) year without a break in service and have worked for at least 1,250 hours preceding the request are eligible for family and medical leave. A

husband and wife employed by DDSN or two separate State agencies are considered to be employed by the same employer and are allowed a total of 12 weeks of leave if it is taken for either of the first three reasons under "Reasons for Leave." Employees will be returned to the same or an equivalent position upon their return from leave.

Family or medical leave, unless used in combination with accrued sick or annual leave, will be unpaid leave. If leave is requested for an employee's own serious health condition, the employee must use all of his or her accrued sick leave. If leave is requested for any other reason listed below, an employee may use his or her accrued annual leave. Accrued family sick leave may be used for absences required by reason #3. The remainder of the leave period will then consist of unpaid leave. FMLA leave will run concurrently with leave authorized under State law for an extended disability with regard to the 180 day limit. Intermittent leave may be approved if requested for reasons three and four as reflected below.

#### **Reasons For Leave:**

All employees who meet the applicable time-of-service requirements may be granted a total of twelve (12) weeks of unpaid family leave and paid sick and annual leave combined (during any calendar year) for the following reasons:

- 1. the birth of the employee's child and in order to care for the child;
- 2. The placement of a child with the employee for adoption or foster care;
- 3. to care for a spouse, child or parent who has a serious health condition; or
- 4. a serious health condition that renders the employee incapable of performing the essential functions of his or her job.

The entitlement to leave for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement.

# **Application For Leave:**

In all cases, an employee requesting FMLA leave must complete a leave application for family and/or medical leave and return it to the Personnel Director. The completed application must state the reasons for the leave, the duration of the leave, and the starting and ending dates of the leave.

An employee intending to take family leave or medical leave because of an expected birth or placement, or because of a planned medical treatment, must submit an application for leave at least thirty (30) days before the leave is to begin. If leave is to begin within 30 days, an employee must give notice to his or her immediate supervisor and Personnel Director as soon as the necessity for the leave arises.

#### **Medical Certification Of Leave:**

An application for leave based on the serious health condition of the employee or the employee's spouse, child or parent must also be accompanied by a "Medical Certification Statement" completed by the applicable health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition.

If the employee is needed to care for a spouse, child or parent, the certification must so state along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition, the certification must state that the employee cannot perform the essential functions of his or her job.

## **Benefits Coverage During Leave:**

During a period of family or medical leave, an employee will be retained on State Insurance Plan under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to make any contributions that he or she made to the plan before taking leave. Failure of the employee to pay his or her share of the health insurance premium on a monthly basis may result in loss of coverage.

If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse SCDDSN for payment of health insurance premiums during the family leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job or to circumstances beyond the employee's control.

#### **Restoration to Employment:**

An employee eligible for family and medical leave will be restored to the last held position or to a position with equivalent pay, benefits, and other terms and conditions of employment upon completion of a period of FMLA leave for reasons one through three listed above. SCDDSN cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an "equivalent position" will be made by SCDDSN.

An employee on FMLA leave due to their own serious health conditions must provide a statement from the attending health care provider certifying that they can perform the essential job functions before he or she can be returned to active status. If an employee wishes to return to work prior to the expiration of a family or medical leave of absence, notification must be given to the Personnel Director at least five (5) working days prior to the employee's planned return.

The failure of an employee to return to work upon the expiration of a family or medical leave of absence will subject the employee to immediate termination unless an extension is granted. An employee who requests an extension of family leave or medical leave due to the serious health condition, or of the serious health condition of the employee's spouse, child or parent, must submit a request for an extension, in writing, to the Personnel Director. This written request

should be made as soon as the employees real expiration of the leave period.	izes that she or he will not be able to return at the
This information contained in this section will program.	l be included as a part of the new orientation
Wayne D. Blanton	Stanley J. Butkus, Ph.D.
Director, Human Resources and Legal	State Director

(Approved)

Services (Originator)